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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,024	03/22/2004	Duane D. Giles	PGILBC	2240
7590	02/06/2006		EXAMINER	
Thompson E. Fehr Goldenwest Corporate Center Suite 300 5025 Adams Avenue Ogden, UT 84403			ARYANPOUR, MITRA	
			ART UNIT	PAPER NUMBER
			3711	
DATE MAILED: 02/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/807,024	GILES, DUANE D.	
	Examiner	Art Unit	
	Mitra Aryanpour	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 December 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-8 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-8 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. 2/1/06.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Ellingsberg (6,371,861).

Regarding claim 1, Ellingsberg discloses billiard table comprising a table top (12) having an edge (top rail 20), an upper surface (playing surface 18) and a bottom surface (see figure 2) with the bottom being substantially parallel to the upper surface; soft, moveable pockets (28, 29, 30, 32; see column 5, lines 46-49) attached to said table top; a rail (20), having an inner edge, on top of the table top adjacent to the edge of the table top; a side cushion (22) adjacent to the inner edge of the rail (see figure 5); a center support column (pillar portion 16); and a base (footed portion 15) below the central support column (pillar portion 16) having a lateral dimension (see figure 2).

It is noted that the preamble, *a wheel chair-accessible billiards*, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

It is further noted that the body of the claim includes a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and

the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim Rejections - 35 USC § 103

3. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellingsberg (6,371,861).

Regarding claim 2, Ellingsberg shows the tabletop can be attached to the pedestal using conventional lazy-susan hardware fittings. As it is commonly known bolts and screws are used in a lazy-susan.

Regarding claim 3, Ellingsberg further shows the table top comprises, a layer of slate, a layer felt, and a rail on top of the layer of felt and adjacent the edge of the table top (see column 5, lines 1-16). Ellingsberg does not expressly disclose the table assembly including a first and second layer of wood. It is customary to position one or two layers of wood under a slate surface, so the layer of wood can provide a means for evenness supporting the weight of the slate surface and it would have been obvious to include the same for the table assembly of Ellingsberg.

Regarding claim 4, Ellingsberg does not expressly disclose the means for securing the rail to the layer of felt. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use one or more bolts for securing the rail to the various table top layers, because Applicant has not disclosed that use one or more bolts, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the attachment means taught by Ellingsberg or the claimed attachment means because both attachment means perform the same function of securing the rail to various

the table top layers. Therefore, it would have been an obvious matter of design choice to modify Ellingsberg to obtain the invention as specified in claim 4.

Regarding claim 5, note the rejection of claim 4.

Regarding claim 6, note the rejection of claim 3.

Regarding claim 7, note the rejection of claim 4.

Regarding claim 8, note the rejection of claim 4.

Response to Arguments

4. The indicated allowability of claims 1-8 is withdrawn in view of the Kooker (3,658,328) reference. The Examiner regrets any inconvenience that this may have caused the applicant.

5. The terminal disclaimer filed on 27 December 2005 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of Patent Number 6,709,341 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

01 February 2006



MITRA ARYANPOUR
PRIMARY EXAMINER